

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS – Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR A
HEARING TO DETERMINE THE FAIR VALUE OF
THE UTILITY PROPERTY OF THE COMPANY
FOR RATEMAKING PURPOSES, TO FIX A JUST
AND REASONABLE RATE OF RETURN
THEREON, TO APPROVE RATE SCHEDULES
DESIGNED TO DEVELOP SUCH RETURN.

DOCKET NO. E-01345A-19-0236

PROCEDURAL ORDER
(Grants Intervention)**BY THE COMMISSION:**

On October 1, 2019, Arizona Public Service Company ("APS") filed with the Arizona Corporation Commission ("Commission") a Notice of Intent to File a Rate Case Application and Request to Open Docket. As a result, this docket was opened.

On October 31, 2019, APS filed its Rate Application.

On November 29, 2019, the Commission's Utilities Division ("Staff") filed a Letter of Sufficiency, stating that APS's rate application had met the sufficiency requirements as outlined in Arizona Administrative Code ("A.A.C.") R14-2-103(B)(7) and that APS had been classified as a Class A Utility.

As of March 19, 2020, the following parties have been granted intervention in this matter, and rulings have been made on a handful of motions:¹

Intervenor Name ("Shortened Name")	"Group Name" (if applicable)
Richard Gayer	
The Kroger Co. ("Kroger")	
Southwest Energy Efficiency Project ("SWEEP")	
Western Resource Advocates ("WRA")	
Freeport Minerals Corporation ("Freeport")	
Arizonans for Electric Choice and Competition ("AECC")	

¹ For additional procedural history, please see previous Procedural Orders issued in this matter.

1	SOLON Corporation (“SOLON”)	
	Residential Utility Consumer Office (“RUCO”)	
2	The Property Owners and Residents Association of Sun City West (“PORA”)	
3	Arizona Competitive Power Alliance (“ACPA”)	
4	Wildfire	
	Solar Energy Industries Association (“SEIA”)	
5	Arizona Solar Energy Industries Association (“AriSEIA”)	
6	Arizona School Boards Association (“ASBA”)	
	Arizona Association of School Business Officials (“AASBO”)	
7	Vote Solar	
8	International Brotherhood of Electrical Workers, AFL-CIO, Local 387 (“Local 387”)	“IBEW Locals”
9	International Brotherhood of Electrical Workers, AFL-CIO, Local 769 (“Local 769”)	
10	Aguila Irrigation District (“AID”)	“Districts”
	Buckeye Water Conservation and Drainage District (“BWCD”) (“BWCD”)	
11	Electrical District Number Six of Pinal County (“ED6”)	
12	Electrical District Number Seven of Maricopa County (“ED7”)	
	Electrical District Number Eight of Maricopa County (“ED8”)	
13	Harquahala Valley Power District (“HVPD”)	
14	Maricopa County Municipal Water Conservation District Number One (“MWD”)	
15	McMullen Valley Water Conservation & Drainage District (“MVWCDD”)	
16	Tonopah Irrigation District (“TID”)	
	Sierra Club	
17	Shelly A. Kaner	
	Patricia Madison	
18	Jonathan Jones	
19	Federal Executive Agencies (“FEA”)	
	John Thornton	
20	San Juan Citizens Alliance (“SJCA”)	“Citizen Groups”
21	Tó Nizhoní Ání (“TNA”)	
	Diné CARE (“DC”)	
22	Walmart Inc. (“Walmart”)	
23	Navajo Nation (“Nation”)	
	Tesla, Inc. (“Tesla”)	
24	Calpine Energy Solutions, LLC (“Calpine”)	
25	Constellation NewEnergy, Inc. (“Constellation”)	
	Direct Energy Business, LLC (“Direct Energy”)	
26	ChargePoint, Inc. (“ChargePoint”)	
27	Arizona Solar Deployment Alliance (“ASDA”)	
	AARP	
28	EVgo Services LLC (“EVgo”)	

1 On March 18, 2020, a Procedural Order was issued rescheduling the hearing in this matter, in
2 response to a Staff Motion, and ruling upon several additional motions. The Procedural Order referred
3 to an Attachment A but did not include the Attachment as stated.

4 On March 19, 2020, a Procedural Order was issued modifying the Procedural Order dated
5 March 18, 2020, to include Attachment A.

6 **Pending Motions**

7 **DERA Application to Intervene**

8 On March 17, 2020, Distributed Energy Resource Association (“DERA”) filed an Application
9 to Intervene, stating that it is a nonprofit trade organization, representing local and national companies,
10 whose mission is to promote policies for greater use of Distributed Energy Resources (“DERs”),
11 including solar, battery storage, loader controllers, wireless thermostats, and other devices targeted at
12 peak load reduction in Arizona. DERA states that on January 16, 2020, its Board of Directors passed
13 a motion to intervene and to allow its Executive Director, Tom Harris, a non-attorney, to act on its
14 behalf in this matter. DERA states that its members have significant interests that cannot be represented
15 by other parties, including a focus on peak demand side reduction through evolving technologies.
16 DERA further states that its intervention will not unduly delay this proceeding or unduly broaden the
17 issues in this matter.

18 DERA’s Application to Intervene was filed five weeks after the deadline for intervention in this
19 matter and did not provide any rationale for the delay in filing. Nonetheless, as none of the many
20 parties have objected to DERA’s Application, and the procedural schedule for this matter has been
21 extended significantly, it is reasonable to grant DERA’s Application. DERA needs to be aware,
22 however, that it is expected to read every Procedural Order issued in this matter and to comply with all
23 applicable requirements therein and that its failure to do so may adversely impact its ability to present
24 its case herein.

25 **Gayer Motion to Compel Inclusion**

26 On March 20, 2020, Mr. Gayer filed “Intervenor Gayer’s Objections to APS’s Attachment A
27 Because It Does Not Include Intervenor Gayer’s Filings and Motion to Compel Inclusion” (“Motion to
28 Compel Inclusion”). In the Motion to Compel Inclusion, Mr. Gayer asserts that APS’s Attachment A

1 did not include filings made by Mr. Gayer or by Intervenor Warren Woodward, which unlawfully
2 discriminates against them and denies them equal protection of the laws. Mr. Gayer asserts that this
3 occurred largely because he and Mr. Woodward have strongly opposed APS's positions and did not
4 sign the Settlement Agreement approved in Docket No. E-01345A-16-0036 et al. ("2016 Rate Case").
5 Mr. Gayer moved that APS be compelled to add to Attachment A all of Mr. Gayer's filings in the 2016
6 Rate Case. Mr. Gayer did not provide a list of his filings from the 2016 Rate Case.

7 No party has filed a response to the Motion to Compel Inclusion.

8 Official notice has been taken of the documents listed on APS's Attachment A, which were
9 filed in the 2016 Rate Case during the Selective Catalytic Reduction ("SCR") Adjustor phase, between
10 April 27, 2018, and January 20, 2019. A review of Mr. Gayer's filings in the 2016 Rate Case reveals
11 that they were made during the period between February 5, 2016, and September 5, 2017, which
12 precedes the SCR phase. Because of this, it would not have made sense for APS to include any of Mr.
13 Gayer's filings within Attachment A, and Mr. Gayer's Motion to Compel Inclusion should be denied.

14 SOLON Motion to Withdraw

15 On March 25, 2020, SOLON filed a Motion to Withdraw from Intervention ("Motion to
16 Withdraw"), stating that it believes its interests can be adequately represented by other participating
17 parties.

18 As SOLON is in the best position to know whether its interests will be adequately represented
19 by other parties, and it no longer desires to participate as an intervenor in this matter, SOLON's Motion
20 to Withdraw should be granted.

21 IT IS THEREFORE ORDERED that **intervention is hereby granted to Distributed Energy**
22 **Resource Association.**

23 IT IS FURTHER ORDERED that **Mr. Gayer's Motion to Compel Inclusion** is hereby **denied.**

24 IT IS FURTHER ORDERED that **SOLON's Motion to Withdraw** is hereby **granted**, and
25 SOLON is no longer an intervenor in this matter.

26 IT IS FURTHER ORDERED that any motion, other than a dispositive motion, that is filed in
27 this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall be
28 deemed denied.

1 IT IS FURTHER ORDERED that any response to a motion other than a dispositive motion
2 shall be filed within seven calendar days of the filing date of the motion.

3 IT IS FURTHER ORDERED that any response to a dispositive motion shall be filed within 10
4 calendar days of the filing date of the motion.

5 IT IS FURTHER ORDERED that any reply to a response shall be filed within five calendar
6 days of the filing date of the response.

7 IT IS FURTHER ORDERED that each party or prospective party shall **refer to the**
8 **Commission's website** for information regarding **Global Consent to Email Service² and how to**
9 **Follow the Docket.**³ Information regarding Global Consent to Email Service and how to Follow the
10 Docket is available on the Commission's website (www.azcc.gov) by clicking on "**Cases and Open**
11 **Meetings**" and then clicking on "**Globally Consent to Email Service**" or "**Follow a Docket.**"

12 IT IS FURTHER ORDERED that **documents may be eFiled** in this docket and that instructions
13 and restrictions for eFiling are available on the Commission's website at [http://azcc.gov/hearing/efile-](http://azcc.gov/hearing/efile-for-utilities-instruction)
14 [for-utilities-instruction.](http://azcc.gov/hearing/efile-for-utilities-instruction)

15 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
16 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

17 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
18 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
19 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
20 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
21 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
22 Law Judge or the Commission.

23 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
24 Communications) applies to this proceeding and shall remain in effect until the Commission's Decision
25 in this matter is final and non-appealable.

26 _____
27 ² Global Consent to Email Service allows a party to consent to receive email service in all cases for which the party is
included on the service list, now or in the future.

28 ³ The "Follow a Docket" service allows any person to receive email notice, with a link to the filing, whenever something
is filed in the docket. The service can be used to follow one or many dockets.

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
2 pursuant to Rule 6(a)(2) or (c) of the Arizona Rules of Civil Procedure.

3 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or
4 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
5 hearing.

6 DATED this 31st day of March, 2020.

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9 SARAH N. HARPRING
10 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE
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On this 31st day of March, 2020, the foregoing document was filed with Docket Control as a Procedural Order – Miscellaneous, and copies of the foregoing were mailed on behalf of the Hearing Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

Melissa M. Krueger
 Thomas L. Mumaw
 Theresa Dwyer
 PINNACLE WEST CAPITAL CORPORATION
 400 North 5th Street, MS 8695
 Phoenix, AZ 85004
 Attorney for Arizona Public Service Company
Melissa.Krueger@pinnaclewest.com
Thomas.Mumaw@pinnaclewest.com
Theresa.Dwyer@pinnaclewest.com
Andrew.Schroeder@aps.com
Leland.Snook@aps.com
Rodney.Ross@aps.com
ratecase@aps.com
Consented to Service by Email

Richard Gayer
 526 W. Wilshire Drive
 Phoenix, AZ 85003
rgayer@cox.net
Consented to Service by Email

Patrick J. Black
 Lauren A. Ferrigni
 FENNEMORE CRAIG, P.C.
 2394 E. Camelback Road, Suite 600
 Phoenix, AZ 85016
 Attorneys for Freeport Minerals Corporation
 and Arizonans for Electric Choice and
 Competition
pblack@fclaw.com
lferrigni@fclaw.com
khiggins@energystrat.com
Consented to Service by Email

Kurt J. Boehm
 Jody Kyler Cohn
 BOEHM, KURTZ & LOWRY
 36 E. Seventh Street, Suite 1510
 Cincinnati, OH 45202
 Attorneys for The Kroger Co.
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com
Consented to Service by Email

Adam L. Stafford
 P.O. Box 30497
 Phoenix, AZ 85046
 Attorney for Western Resource Advocates
Adam.Stafford@westernresources.org
Steve.Michel@westernresources.org
Stacy@westernresources.org
Autumn.Johnson@westernresources.org
Consented to Service by Email

Michele L. Van Quathem
 LAW OFFICES OF MICHELE VAN
 QUATHEM, PLLC
 7600 N. 15th Street, Suite 150-30
 Phoenix, AZ 85020
 Attorney for SOLON Corporation
mvq@mvqlaw.com
Emailed as a Courtesy

Daniel W. Pozefsky
 RUCO
 1110 W. Washington Street, Suite 220
 Phoenix, AZ 85007
dpozefsky@azruco.gov
procedural@azruco.gov
jfuentes@azruco.gov
cfraulob@azruco.gov
Consented to Service by Email

Timothy M. Hogan
Jennifer B. Anderson
ARIZONA CENTER FOR LAW IN THE
PUBLIC INTEREST
514 W. Roosevelt Street
Phoenix, AZ 85003

Attorneys for Southwest Energy Efficiency
Project, Wildfire, Solar Energy Industries
Association, Arizona Solar Energy Industries
Association, Arizona School Boards
Association, Arizona Association of School
Business Officials, Vote Solar, Sierra Club, San
Juan Citizens Alliance; Tó Nizhoní Ání; and
Diné CARE

thogan@aclpi.org

janderson@aclpi.org

ezuckerman@swenergy.org

cpotter@swenergy.org

sbatten@aclpi.org

czwick@wildfireaz.org

briana@votesolar.org

louisa.eberle@sierraclub.org

rose.monahan@sierraclub.org

sandy.bahr@sierraclub.org

miriam.raffel-smith@sierraclub.org

mark@sanjuancitizens.org

mike@sanjuancitizens.org

carol.davis@dine-care.org

adella.begaye@dine-care.org

lori.goodman@dine-care.org

robyn.jackson@dine-care.org

nhorseherder@gmail.com

Consented to Service by Email

Bob Miller
Ralph Johnson
Property Owners and Residents
Association of Sun City West
13815 W. Camino del Sol
Sun City West, AZ 85375

bob.miller@porascw.org

rdjsw@gmail.com

Consented to Service by Email

Greg Patterson
MUNGER CHADWICK
5511 S. Jolly Roger Road
Tempe, AZ 85283
Attorney for Arizona Competitive Power
Alliance

greg@azcpa.org

Consented to Service by Email

Court Rich
Eric Hill
ROSE LAW GROUP PC
7144 E. Stetson Drive, Suite 300
Scottsdale, AZ 85251
Attorneys for Solar Energy Industries
Association; Arizona Solar Energy Industries
Association; Tesla, Inc.; and EVgo Services
LLC

CRich@RoseLawGroup.com

ehill@roselawgroup.com

hslaughter@roselawgroup.com

Consented to Service by Email

Nicholas J. Enoch
LUBIN & ENOCH, P.C.
349 N. Fourth Avenue
Phoenix, AZ 85003
Attorney for Local Unions 387 and 769 of the
International Brotherhood of Electrical
Workers, AFL-CIO

nick@lubinandenoch.com

Consented to Service by Email

Jason Y. Moyes
MOYES SELLERS & HENDRICKS LTD.
1850 N. Central Avenue, Suite 1100
Phoenix, AZ 85004
Attorney for Aguila Irrigation District,
Buckeye Water Conservation and Drainage
District, Electrical District Number Six of Pinal
County. Electrical District Number Seven of
Maricopa County, Electrical District Number
Eight of Maricopa County, Harquahala Valley
Power District, Maricopa County Municipal
Water Conservation District Number One,
McMullen Valley Water Conservation &
Drainage District, and Tonopah Irrigation
District

jasonmoyes@law-msh.com

jjw@krsaline.com

jim@harcuvar.com

Consented to Service by Email

Shelly A. Kaner
8831 W. Athens St.
Peoria, AZ 85382

Patricia Madison
13345 W. Evans Drive
Surprise, AZ 85379
Patricia_57@q.com

Consented to Service by Email

Jonathan Jones
14324 N. 160th Drive
Surprise, AZ 85379
jones.2792@gmail.com

Consented to Service by Email

Karen S. White
AFIMSC/JAQ
139 Barnes Ave.
Tyndall AFB, FL 32403

and

Thomas A. Jernigan
AFIMSC/JAU
139 Barnes Dr., Suite 1
Tyndall AFB, FL 32403
Attorneys for Federal Executive Agencies

John S. Thornton
8008 N. Invergordon Rd.
Paradise Valley, AZ 85253
john@thorntonfinancial.org

Consented to Service by Email

Scott S. Wakefield
HIENTON CURRY, P.L.L.C.
5045 N. 12th St., Suite 110
Phoenix, AZ 85014
Attorneys for Walmart, Inc.
swakefield@hclawgroup.com
stephen.chriss@walmart.com

Consented to Service by Email

Kimberly A. Dutcher
NAVAJO NATION DEPARTMENT OF
JUSTICE
P.O. Box 2010
Window Rock, AZ 86515
Attorneys for the Navajo Nation
kdutcher@nndoj.org
aquinn@nndoj.org

Consented to Service by Email

Jason R. Mullis
WOOD SMITH BENNING & BERMAN LLP
2525 E. Camelback Rd., Suite 450
Phoenix, AZ 85016-4210

and

Gregory M. Adams
RICHARDSON ADAMS, PLLC
515 N. 27th St.
Boise, ID 83702

Attorneys for Calpine Energy Solutions, LLC
JMullis@wshblaw.com
greg@richardsonadams.com
greg.bass@calpinesolutions.com

Consented to Service by Email

Albert Acken
DICKINSON WRIGHT PLLC
1850 N. Central Ave., Suite 1400
Phoenix, AZ 85004
Attorneys for Constellation New Energy, Inc.
and Direct Energy Business, LLC
aacken@dickinson-wright.com

Consented to Service by Email

Giancarlo Estrada
KAMPER ESTRADA, LLP
3030 N. 3rd St., Suite 770
Phoenix, AZ 85012
Attorney for ChargePoint, Inc.
gestrada@phxlaw.com

Consented to Service by Email

Gary D. Hays
LAW OFFICES OF GARRY D. HAYS, P.C.
2198 E. Camelback Road, Suite 230
Phoenix, AZ 85016
Attorney for Arizona Solar Deployment
Alliance
Ghays@lawgdh.com

Consented to Service by Email

Armando Nava
THE NAVA LAW FIRM, PLLC
1641 E. Osborn Rd., #8
Phoenix, AZ 85016
Attorney for AARP
Filings@navalawaz.com

Consented to Service by Email

1 Thomas A. Harris
2 Distributed Energy Resource Association
3 5215 E. Orchid Lane
4 Paradise Valley, AZ 85253
5 Thomas.Harris@DERA-AZ.org

6 **Consented to Service by Email**

7 Robin Mitchell, Director
8 Legal Division
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, AZ 85007
12 LegalDiv@azcc.gov
13 utildivservicebyemail@azcc.gov

14 **Consented to Service by Email**

15 COASH & COASH, INC.
16 Court Reporting, Video and
17 Videoconferencing
18 1802 North 7th Street
19 Phoenix, AZ 85006
20 **Emailed as a courtesy**

21 By:

22 
23 Grace Beltran
24 Assistant to Sarah N. Harpring
25
26
27
28